

SUBCHAPTER A : DEFINITIONS

§122.10. General Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Natural Resource Conservation Commission (TNRCC), the terms used by the TNRCC have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, and in §101.1 of this title (relating to Definitions), the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Act - The Federal Clean Air Act, as amended, 42 United States Code 7401, et seq.

Affected states - May be New Mexico, Oklahoma, Kansas, Colorado, Arkansas, or Louisiana if either of the following criteria are met:

(A) that State's air quality may be affected by the issuance of a federal operating permit, permit revision, or permit renewal; or

(B) that State is within 50 miles of the site or proposed site.

Air pollutant - For purposes of this chapter, any of the following regulated air pollutants:

(A) nitrogen oxides;

(B) volatile organic compounds;

(C) any pollutant for which a National Ambient Air Quality Standard (NAAQS) has been promulgated;

(D) any pollutant that is subject to any standard promulgated under the Act, §111;

(E) unless otherwise specified by the Administrator by rule, any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or

(F) any pollutant listed in the Act, §112(b) or §112(r) and subject to a standard promulgated under the Act, §112.

Applicable requirement - All of the following as they apply to the emission units at a site (including requirements that have been promulgated or approved by the United States Environmental Protection Agency (EPA) through rulemaking at the time of issuance of the permit but have future-effective compliance dates):

(A) any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 Code of Federal Regulations (CFR) 52. For purposes of the Federal Operating Permit Program, Chapters 111-115, and 117-119 of this title (relating to Control of Air Pollution From Visible Emissions and Particulate Matter; Control of Air Pollution From Sulfur Compounds, Control of Air Pollution From Toxic Materials; Control of Air Pollution From Motor Vehicles; Control of Air Pollution From Volatile Organic Compounds; Control of Air Pollution From Nitrogen Compounds; Control of Air Pollution Episodes; and Control of Air Pollution from Carbon Monoxide) are the only state standards that implement relevant requirements of Title I of the Act;

(B) any term or condition of any preconstruction permits issued pursuant to the undesignated heading of Chapter 116 of this title (relating to Prevention of Significant Deterioration Review or Nonattainment Review) as necessary to implement the requirements of regulations approved or promulgated through rulemaking under Part C (Prevention of Significant Deterioration) or Part D (Nonattainment) of Title I of the Act;

(C) any standard or other requirement under the Act, §111, relating to New Source Performance Standards (NSPS), including §111(d);

(D) any standard or other requirement under the Act, §112, relating to Hazardous Air Pollutants (HAPs), including any requirement concerning accident prevention under the Act, §112(r)(7);

(E) any standard or other requirement of the acid rain provisions of the Act or the acid rain rules;

(F) any requirements established pursuant to the Act, §504(b) or §114(a)(3), regarding Monitoring, Enhanced Monitoring, and Compliance Certification;

(G) any standard or other requirement governing solid waste incineration, under the Act, §129 (NSPS);

(H) any standard or other requirement for consumer and commercial products, under the Act, §183(e) (Federal Ozone Measures);

(I) any standard or other requirement for tank vessels, under the Act, §183(f), (Tank Vessel Standards);

(J) any standard or other requirement of the program to control air pollution from outer continental shelf sources, under the Act, §328;

(K) any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless EPA has determined that such requirements need not be contained in a federal operating permit; and

(L) any NAAQS or increment or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to the Act, §504(e). Except as noted in this subparagraph, ambient air quality standards, net ground level concentration limits, or ambient atmospheric concentration limits, either state or federal, are not applicable requirements under this chapter.

Deviation - Any condition that indicates that an emissions unit has failed to meet an emission limitation or standard imposed by an applicable requirement. If parameter monitoring is used, a period of indeterminate compliance that may occur shall not necessarily be considered a deviation.

Draft permit - The version of a federal operating permit available for purposes of public notice and affected state review under Subchapter B of this chapter (relating to Public Notification and Comment Procedures).

Emission allowable under the permit - A federally enforceable permit term or condition determined at issuance to be required by an applicable requirement, that establishes an emissions limit (including a work practice standard) in the form of the applicable requirement or a federally enforceable emissions cap that the owner or operator of a site has assumed to avoid an applicable requirement to which the site would otherwise be subject.

Emission unit - The smallest discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a point of origin of air pollutants as defined in this section. A point of origin of fugitive emissions from individual pieces of equipment, e.g., valves, flanges, pumps, and compressors, shall not be considered an individual emission unit. Such fugitive emissions shall be collectively considered as an emission unit based on their relationship to the associated process and those emissions shall be included in the permit application. This term is not meant to alter or affect the definition of the term "unit" for purposes of the acid rain provisions of the Act.

United States Environmental Protection Agency (EPA) or Administrator - The Administrator of the EPA or his designee.

Final action - Issuance or denial of the proposed permit by the board or its designee after the EPA review period as provided in Subchapter D of this chapter (relating to Affected State Review, United States Environmental Protection Agency Review, and Citizen Petition).

Fugitive emissions - Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

General permit - A federal operating permit that meets the requirements of §122.202 of this title (relating to General Permits).

Major source - Any site which emits or has the potential to emit air pollutants as described in subparagraphs (A), (B), or (C) of this definition.

(A) Any site which, in whole or part, is a major source under the Act, §112, which is defined as:

(i) for pollutants other than radionuclides, any site that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any single hazardous air pollutant which has been listed pursuant to the Act, §112(b), 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule; or

(ii) for radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) Any site which directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the United States Environmental Protection Agency). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major source, unless the stationary source belongs to one of the following categories of stationary sources:

- (i) coal cleaning plants (with thermal dryers);
- (ii) kraft pulp mills;
- (iii) portland cement plants;
- (iv) primary zinc smelters;
- (v) iron and steel mills;
- (vi) primary aluminum ore reduction plants;
- (vii) primary copper smelters;
- (viii) municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) hydrofluoric, sulfuric, or nitric acid plants;
- (x) petroleum refineries;
- (xi) lime plants;
- (xii) phosphate rock processing plants;
- (xiii) coke oven batteries;
- (xiv) sulfur recovery plants;

- (xv) carbon black plants (furnace process);
- (xvi) primary lead smelters;
- (xvii) fuel conversion plant;
- (xviii) sintering plants;
- (xix) secondary metal production plants;
- (xx) chemical process plants;
- (xxi) fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units (Btu) per hour heat input;
- (xxii) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) taconite ore processing plants;
- (xiv) glass fiber processing plants;
- (xxv) charcoal production plants;
- (xxvi) fossil-fuel-fired steam electric plants of more than 250 million Btu per hour heat input; or
- (xxvii) any other stationary source category which as of August 7, 1980, is being regulated under the Act, §111 or §112.

(C) Any site which, in whole or in part, is a major source under Part D of Title I of the Act, including:

- (i) any site with the potential to emit volatile organic compounds (VOC) or oxides of nitrogen in a quantity of 100 tpy or more in Collin, Dallas, Denton, or Tarrant Counties, or in any other ozone nonattainment area classified as "marginal or moderate;" 50 tpy or more in El Paso, Hardin, Jefferson, or Orange Counties, or in any other ozone nonattainment area classified as "serious;" 25 tpy or more in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, or Waller Counties, or in any other ozone nonattainment area classified as "severe;" and 10 tpy or more in any ozone nonattainment area classified as "extreme;"
- (ii) for Victoria County, sites with the potential to emit 100 tpy or more of VOC;
- (iii) for the carbon monoxide nonattainment area in El Paso County, sites with the potential to emit 100 tpy or more of carbon monoxide;

(iv) for the City of El Paso, sites with the potential to emit 100 tpy or more of inhalable particulate matter (PM-10);

(v) for the lead nonattainment area in Collin County, sites with the potential to emit 100 tpy or more of lead.

(D) The fugitive exclusions which apply to subparagraph (B) of this definition shall also apply under subparagraph (C).

(E) Notwithstanding the preceding source categories, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources under subparagraph (A) of this definition and, in the case of any oil or gas exploration or production well (with its associated equipment), such emissions shall not be aggregated for any purpose under subparagraph (A).

Permit or federal operating permit - Any federal operating permit or group of federal operating permits covering a site that is issued, renewed, amended, or revised pursuant to this chapter, or general permit or group of general permits promulgated or granted pursuant to this chapter.

Permit application - An application for a federal operating permit, permit revision, permit renewal, permit reopening, and any other such application as may be required.

Permit revision - Any permit addition, significant modification, or administrative permit amendment that meets the related requirements of Subchapter C of this chapter (relating to Permit Issuances, Revisions, Reopenings, and Renewals).

Potential to emit - The maximum capacity of a stationary source to emit any air pollutant under its physical and operational design or configuration. Any certified registration or preconstruction authorization restricting emissions or any physical or operational limitation on the capacity of a stationary source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in acid rain provisions of the Act or the acid rain rules.

Preconstruction authorization - Any authorization to construct or modify an existing facility or facilities under Chapter 116 of this title (relating to Control of Air Pollution by Permits For New Construction or Modification). In this chapter, references to preconstruction authorization under Chapter 116 of this title also include, where appropriate, preconstruction authorization under Chapter 120 of this title (relating to Control of Air Pollution from Hazardous Waste or Solid Waste Management Facilities) or Chapter 121 of this title (relating to Control of Air Pollution from Municipal Solid Waste Management Facilities).

Proposed permit - The version of a federal operating permit that the TNRCC forwards to the United States Environmental Protection Agency for a 45-day review period in compliance with Subchapter D of this chapter (relating to Affected State Review, United States Environmental Protection Agency Review, and Citizen Petition).

Relevant emission unit - Those emission units having one or more applicable requirements as defined in this chapter.

Renewal - The process by which a federal operating permit is reissued at the end of its term.

Responsible official - One of the following:

(A) for a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a federal operating permit and either:

(i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) the delegation of authority to such representative is approved in advance by the TNRCC;

(B) for a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) for a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this chapter, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the United States Environmental Protection Agency); or

(D) for affected sources:

(i) the designated representative insofar as actions, standards, requirements, or prohibitions under the acid rain provisions of the Act or the acid rain rules are concerned; and

(ii) the designated representative for any other purposes under this chapter.

Significant permit modification - A revision to a federal operating permit that meets the requirements of §122.219 of this title (relating to Significant Permit Modifications).

Site - The total of all stationary sources located on one or more contiguous or adjacent properties, which are under common control of the same person (or persons under common control). Research and development operations shall be treated as a separate site from any manufacturing facility with which they are co-located. A site may contain multiple relevant emission units and grandfathered emission units.

State only requirement - A requirement which is not federally enforceable under this chapter or is not an applicable requirement under this chapter.

Stationary source - Any building, structure, facility, or installation that emits or may emit any air pollutant.

Title I modification - Changes at a site that qualify as a modification under Title I of the Act, §111 (New Source Performance Standards) or Title I of the Act, §112(g), or as a major modification under Part C (Prevention of Significant Deterioration) or Part D (Nonattainment Review) of Title I of the Act.

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Effective September 20, 1993

§122.11. Grandfather Definitions for State Only Requirements.

Actual grandfather emission unit (definition used for state only requirement) - An emission unit for which construction or operation started prior to September 1, 1971 and at which either: no modification has occurred since September 1, 1971 and, therefore, for which no authorization has been required under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification); or modifications have been authorized only pursuant to a standard exemption under Chapter 116 of this title. Those emission units which started construction between September 1, 1971 and March 1, 1972, and which registered in accordance with the Texas Health and Safety Code, §382.060, as that section existed prior to September 1, 1991, are also considered grandfathered units.

Actual grandfather rate (definition used for state only requirement) - The maximum annual emission rate at which the emission unit actually operated and emitted prior to September 1, 1971 for 12 consecutive months, including any increases authorized by standard exemption under Chapter 116 of this title. A grandfather rate shall not be established which violates any emission limitation or standard required under any chapter of this title.

Presumptive grandfather emission unit (definition for state only requirement) - An emission unit or method of operation for which construction or operation started prior to March 1, 1972 unless the total annual maximum emission rate or operational limits that are related to the annual emissions (e.g., production, fuel firing, throughput, sulfur content, operating hours, etc., as appropriate) for the emission unit are established in a permit, special permit, or special or standard exemption issued pursuant to Chapter 116 of this title.

Presumptive grandfather rate (definition used for state only requirement) - The maximum annual emission rate or data that are related to emissions (e.g., production, fuel firing, throughput, sulfur content, etc., as appropriate) which are selected to reasonably approximate the actual grandfather rate based upon a review of actual historical operations using the procedure outlined in §122.132(a)(5) of this title (relating to Application and Required Information). A grandfather rate shall not be established which violates any emission limitation or standard required under any chapter of this title.

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§122.12. Acid Rain Definitions.

Acid rain compliance option - One of the methods of compliance used by an affected unit as described in a compliance plan submitted and approved in accordance with the acid rain rules or the Federal Clean Air Act (the Act), §407.

Acid rain permit - The legally binding portion of the federal operating permit issued by the Texas Natural Resource Conservation Commission under this chapter including any permit revisions, specifying the acid rain requirements applicable to an affected source, to each affected unit at an affected source, and to the owners and operators and the designated representative of the affected source or the affected unit.

Acid rain rules - The regulations promulgated pursuant to the acid rain provisions of the Act contained in 40 Code of Federal Regulations 72, et al.

Actual grandfather rate (definition used for state only requirement) - For affected units, auxiliary support systems for affected units, simple combustion turbines, and units which serve a generator with a nameplate capacity of 25 megawatt or less, the actual grandfather rate for actual grandfather emission units shall be the maximum annual emission rate or data related to emissions (e.g., fuel firing, sulfur content, etc., as appropriate) at the documented Maximum Continuous Rating, on a continuous operating basis, of generating units used to meet or to prepare to meet requirements of the electric power grid. Each actual grandfather emission unit that is an affected unit shall be operated in compliance with applicable provisions of the Acid Rain Rules, as defined in this section, including any emission allowance limitations.

Affected source - A site that includes one or more affected units.

Affected unit - A unit that is subject to emission reduction requirements or limitations under the acid rain rules.

Allowance - An authorization, under the acid rain rules, by the United States Environmental Protection Agency to emit up to one ton of sulfur dioxide during or after a specified calendar year.

CEM and COM - Abbreviations for continuous emission monitor(s) and a continuous opacity monitor(s), respectively.

Certificate of representation - The completed and signed submission required by the acid rain rules, for certifying the appointment of a designated representative for an affected source or a group of identified affected sources authorized to represent the owners and operators of such source(s) and of the affected units at such source(s) with regard to matters of the acid rain requirements.

Designated representative - The responsible individual authorized by the owners and operators of an affected source and of all affected units at the site, as evidenced by a certificate of representation submitted in accordance with the acid rain rules, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the acid rain requirements. Such matters include, but are not limited to: the holdings, transfers, or dispositions of allowances allocated to a unit; and the submission of or compliance with acid rain permits, permit applications, compliance plans, emission monitoring plans, continuous emissions monitor (CEM), and continuous opacity monitor (COM) certification notifications, CEM and COM certification and applications, quarterly monitoring and emission reports, and annual compliance certifications. Whenever the term "responsible official" is used in this chapter, it shall refer to the "designated representative" with regard to all matters under the acid rain requirements.

Maximum continuous rating - The heat input required to attain the maximum documented steam conditions or to achieve the maximum documented electrical output.

Unit - For the purposes of the acid rain provisions of the Act, a fossil-fuel fired combustion device.

Upgraded units - An affected unit that did not serve a generator with a nameplate capacity greater than 25 megawatts on November 15, 1990, but serves such a generator after November 15, 1990.

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